DOCUMENT RESUME

ED 095 458 CG 009 143

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TITLE Incarceration as a Mechanism of Social Discrimination.
PUB DATE [74]
NOTE 29p.

EDRS PRICE MF-$0.75 HC-$1.85 PLUS POSTAGE
DESCRIPTORS Adults; *Corrective Institutions; *Minority Groups; *Prisoners; *Social Class; *Social Discrimination; Speeches

ABSTRACT

This paper addresses itself to the use of judicial discrimination as a vehicle of imposing and maintaining superordinate controls on society, especially in the white, male-dominated South. The study, using the North Carolina correctional system as an indicator of fair and equal justice, as manifested by our judicial ideals, shows that this is not the case. Direct relationships seem to exist regarding class, race, and sex in that there is a greater chance for lower classes, racial minorities, and male offenders to be prosecuted, convicted, and incarcerated than is the case for other offenders. While whites account for the majority of felony arrests, blacks are the ones who are adjudicated most harshly, accounting for the majority of incarcerations. Although females, in general, are subjected to reverse judicial discrimination, those adjudicated represent the same discriminatory patterns found among their male counterparts regarding class and race. Justice is viewed by the author as being relative in that it is defined not according to some rational, ideal standard but in line with the power elite's own value system, one that often is used to perpetuate the power differential between itself and perceived threatening outgroups in the society. (Author/PC)

ED 095458

INCARCERATION AS A MECHANISM OF SOCIAL DISCRIMINATION

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INCARCERATION AS A MECHANISM OF SOCIAL DISCRIMINATION

The ideal of judicial discrimination is by no means unique for much has been written on the concept of dualistic justice and selective discretion along racial, sex and class lines. However, the mere evidence of these social processes say little about the nature and extent of the problem. This paper addresses itself to the use of judicial discrimination as a vehicle of imposing and maintaining superordinate controls upon society, especially in the white, male dominated South.

Crucial to this argument is the boundary-maintenance perspective of relative justice. This orientation, based upon the works of Durkheim, Simmel, Erikson and Coser, assumes that "justice" is a culturally relativistic concept whose flexibility is determined by the control boundaries defining the extent of desirable and undesirable social behavior. This coupled with Pareto's relativistic concept of social control and power (circulation of elites) makes for a considerably different image of justice than that posited by out ideal criminal justice mandate where often "justice" is viewed as an absolute and not as a socially and politically defined control variable.

Much of the literature on discriminatory justice lends support, either directly or indirectly, to the boundary-maintenance/superordinate-subordinate control theme. Jack Douglas (1972) spoke on the broad application of dualistic justice in our society noting that it permeated our society's primary and secondary relationships. Others, Clark (1965), Rosenfeld (1973), Kvaraceus and Miller (1959), and Ferdinand (1966), wrote on the effects secondary institutions, especially the educational system, have

in perpetuating classist, sexist and racist standards in our society.

Similarly Wald, Wolfgang, McKay, Garfinkel and Overby addressed their research to the more particular issue of discriminatory justice. Wald (1967) stated that poverty breeds crime at the hands of the criminal justice apparatus since the existing criminal justice ideals apparently do not apply to the lower class members of society resulting in the poor being arrested more often, convicted more frequently, sentenced more harshly and rehabilitated less successfully than the rest of society.

Wolfgang (1958), in a study comparing commuted death sentences between Whites and Blacks, noted that a significant proportion of Blacks than Whites were executed concluding that Blacks do not receive equal consideration for commutation of the death penalty. More recent, the McKay Report (1972), on the Attica uprising, pointed out the deliberate racist policies at the New York state facility which played a major role in the subsequent riot resulting in 39 deaths. Documented modes of discrimination included less pay, worse jobs and general harrassment of the Black and Puerto Rican inmates. The riot ended when a 1,100, heavily armed, white assault force attacked the 1,200, virtually unarmed (clubs, makeshift knives and spears), mostly Black and Puerto Rican, protesting inmates. Of the 39 deaths, all 9 hostages and 28 of the 30 inmates met their death at the hands of the assault force.

Garfinkel's (1949) and Overby's (1967) work speaks more specifically on judicial, racist discrimination in the South. Garfinkel, in an eleven year study of the North Carolina judiciary, found a distinctive bias regarding the adjudication of inter-racial homicides. Blacks

killing Whites were considered "sacred" matters with stress placed on getting the "nigger" responsible. Some Whites versus White homicide cases also were considered sacred depending on the social class of the victim vis-a-vis that of the offender. However, Blacks killing Blacks and Whites murdering Blacks were considered "secular" issues with little sentiment involved.

Along similar lines, Overby (1967), in his work on discrimination in the administration of justice, noted that many mechanisms come into play in the South deliberately designed to deny Blacks equal justice. These processes involved inaccessibility to fair defense counsel, prosecution, judges, juries and bail.

Adding meaning to the above discussion of selective and discriminatory justice, Becker, Erikson, Quinney, Coser, Goode and Gusfield go on to explain the control and political factors involved in these processes.

Becker (1962) stated that social groups create deviance by making the rules whose infraction constitutes deviance. More explicitly he suggested that it is those who possess political and economic power in society who are responsible for defining and instituting relative morality whose infraction constitutes deviance. This process of legislating ethical behavioral standards leads to the development of new control and enforcing agencies which, in turn, are instrumental in either creating new classes of outsiders or reinforcing the stigma of existing marginal groups. It seems that these control groups' function is not so much to control the outsiders as much as it is to publicize and draw attention to their negative image.

Erikson (1966) contended that the process of labeling and publicizing marginal groups by the societal control agencies is a natural process in

that it occurs in all societies at all times. Labeled deviance defines for the rest of the society the normative limits of the flexible social boundaries at any given time. This explains, in part, why many social institutions whose manifest design is to discourage deviant behavior actually operate in such a manner as to perpetuate deviancy. An example of this self-fulfilling prophecy is our nation's correctional institutions which gather marginal people into tightly segregated groups, providing them an opportunity to teach one another the skills and attitudes of a deviant career. Often these institutions encourage and provoke their wards to use deviant skills by reinforcing their sense of alienation from the rest of society.

Quinney (1968) focused on the politicality of the judicial process questioning Roscoe Pound"s assertion that justice was rationally and fairly determined and administered at the hands of the criminal justice apparatus. Quinney contends that it is not general social interest but rather special political interest which determine the nature of laws. He sees law as consisting of specialized rules which are created and interpreted in a politically organized society based on an interest structure with an unequal distribution of power.

Coser (1967), in his work on the functions of conflict, provided additional insight to Pareto's circulation of the elite concept through his statement that out-group hostilities increase in-group cohesion while Goode and Gusfield related this process to the American power elite and its justifications of the American ideals supported by the Protestant Ethic and Social Darwinism.

Goode and Gusfield both expanded, in their own way, on Tumin's earlier criticism of the Davis-Moore structural functional interpretation

of social stratification. The Davis-Moore argument resembled the early twentieth century social evolutionary perception of society and man with the functional justifications based upon the Protestant Ethic and Social Darwinism. Achievement motivation and the occupation of high status positions are seen as being functional consequences of free, open competition and individual superiority. Tumin noted the numerous negative functions or dysfunctions created through the process of institutionalized social inequality or stratification.

Goode (1967) supported Tumin's argument by noting that many in-group mechanisms exist protecting inept members of the elite group. Strong informal support for patterns of "insulation" are used to insure both in-group occupation of a strata as well as the prevention of out-group encroachment which may result if universal competition was in fact the norm.

Gusfield (1963) applied the concepts of political power elitism and class polarization in his work on the Temperance movement where he viewed this phenomenon as a symbolic crusade with far reaching social and moral significance. Here moral issues are seen as attempts by elitist interest groups to gain dominance, recognition and prestige of its life style within the total society. The political nature of such moral controversies are crucial since legal, political recognition of one group's ideals symbolizes respectability and prestige for the elitist group while at the same time defining the social distance between that group and others in the society.

Once the elitist group has established its moral imperatives and imposed them upon the rest of society in the form of laws, these are then interpreted in terms of the American ideals. That is, the concepts

of equality and free competition for scarce positions of power, prestige and wealth is superimposed on these ideals given the false impression that these ideal mechanisms were in play when the elite strata was formed and that their moral and legal ideals actually benefit the entire society.

The contradictions between the American ideals of open and free competition and those of elitist, self-interest are quite varied resulting in a general misunderstanding of how and why polar class differences and double standards of justice exist in our society.

Scheler, Merton and Dahrendorf presented arguments contradictory to those supportive of the uni-cultural American ideals. Scheler (1968), the cultural phenomenologist, elaborated on Hume's idea of cultural relativistic social mechanisms of control. He questioned the merits and logic of imposing a single, idealistic value system upon a heterogeneous society. Basic to his argument is the many sub-cultural variations are ignored by the uni-cultural, dominant value system making that system partisan and not universal.

Merton (1968), in his theory of social structure and anomie, presented a similar argument stating that due to our society's uni-cultural, dominant value system, many members of society do not have access to either these means or ends and must adapt to alternative cultural life styles or resort to deviant modes of acquiring the coveted sociatal success goals. These mechanisms include innovation, ritualism, retreatism and rebellion.

Dahrendorf (1968) provided the pragmatic, philosophical argument supportive of this school of thought in his praise of Thrasymachus. He

argued that Plato's character, positing self-interest as the motivating factor for human and group behavior, probably came closer to explaining social reality than do the "rationalist" who argues that man's motivation is governed by altruism and innate rationality and that society pursues harmonious and equitable order.

Turning to criminal justice selection, Sykes, Quinney and Kaplan have explained the nature of the attrition process while the President's Task Force Report documented it.

Sykes (1967) pointed out that crimes are "lost" at every state in the criminal justice process with a precipitous drop in the number of cases as the system moves from the commission of a crime to the application of penal sanctions.

The President's Task Force Report (1967) showed the extent of selection using the 1965 FBI crime index. For the seven index crimes, homicide, forcible rape, aggravated assault, robbery, burglary, grand larceny and auto theft, 1,780,000 offenses were reported; 727,000 were cleared by arrest; 177,000 were charged; 160,000 were sentenced with only 63,000 cases resulting in incarceration.

Quinney (1972) argued that these statistics only tell part of the story since criminal statistics, regardless of their accurace, do not indicate the true natue of criminality in that they do not account for unreported offenses. He feels that "hidden criminality" probably accounts for the majority of crimes committed in our society. Current research (LEAA, 1974) on crime in municipalities strongly support this premise showing that reported crimes represent less than half of those actually committed. Quinney suggested that all human behavior has a

probability of becoming defined as criminal, however only a portion of all cases are officially processes and labeled as criminal in one or more of the adjudication stages.

Kaplan (1973) offering an explanation as to why this selection occurs contended that a subtle process occurs in the criminal justice system whereby ideal practices are modified through the use of informal, administrative techniques involving biased individual judgements and discretion rather than judicial rules and procedures. This coupled with Quinney's political self-interest concept presents a contorted picture of justice, one quite removed from that protrayed by the criminal justice ideals.

One aspect of the political interest phenomenon is the maintenance of social dicotomies which in our society are based on sex, class and race lines. While the categorization process, for the most part, is an artificial one based on elitist self-interest, a complex social defense mechanism has emerged attempting to explain it in terms of the American dream. Although the three variables (sex, class and race) suffer a similar fate, exclusion from the social, political and economic power structure, discrimination against females differs considerably from that directed toward the lower classes and minority members. The female is well integrated into our society and has been assigned "positive" roles as primary socializing agent and preserver of family morality. These are subtle influences within the family setting which have little to do with the secondary power structure. Due to the females favorable, yet submissive, position within society the male social leaders have developed an elaborate network of secondary controls designed to protect the "susceptible" female. This protective element, while prevalent nationwide,

is most evident in the South, especially among the white dominant class.

The class factor overlaps both the sex and race categories while at the same time including a substantial number of white males making it the most inclusive category. In many Northern urban areas the poor and minority members are one and the same. In the South, where the population distribution is still largely rural, there are many poor whites co-existing alongside poor Blacks. And while both the poor Whites and Blacks are politically, socially and economically powerless the Black's lot is worse since they often are the scapegoats for the frustrated lowerclass Whites. The Whites may be powerless but they are socially acceptable while the Blacks are not.

The existence of these social dicotomies, especially those related to class and race, are justified in terms of the American Dream by both the Protestant Ethic and Social Darwinism. So as not to question the American ideals of universal equality and accessibility to coverted, prestige positions within our society, the existing social stratas are said to exist due to innate moral and/or biological inferiority and not due to any social structural inequalities.

It follows that those possessing social, political and economic power also manipulate the societal control mechanisms: educational, economic, political and legalistic institutions. The ruling power elite establishes what Goode (1969) terms its "epistemological methodology", a specific design for imposing and implementing the governing body's values upon the rest of society. The criminal justice apparatus best represents the end result of the selective control processes. It is a unique control mechanism in that its mandate allows it to legally punish societal members adjudged deviant. The component members, law enforcement, the judiciary

and corrections, each in their own way have been licensed by society to punish, even execute, devinat members of society. Law enforcement agencies are the only civilian forces allowed to bear and use arms in enforcing the law, the judiciary has the power to sentence while corrections enforces judicial sentences. Most importantly this powerful control apparatus is under the direction of the power elite, that is, the encumbent political structure.

Political manipulation of control agencies occurs throughout the country but is more visible and evident in the South where traditionally the power structure has changed little over the last century. Because of the stability of the power elite it has been able to be more blatant and open about its overall societal control design, one that often incorporates institutionalized racial discrimination. The following research investigates one such system, that of North Carolina.

THE RESEARCH SETTING:

Our society is a violent one as many scholars have attested (Palmer, 1973; Skolnick, 1968; Eisenhower, 1969). One element of the National Commission of the Causes and Prevention of Violence dealt with the history of violence in America (Graham and Gurr, 1969). They noted that violence has long been one of the characteristics most frequently attributed to Southerns, this stereotype being reinforced historically through duels, slavery, lynching, chain gangs and brutal police tactics. The F.B.I.'s Uniform Crime Report bears this out showing the South as consistently having the highest murder rate in the country. Violence, then, seems to be the general norm concerning not only Southern behavioral patterns in general but involves also the response patterns of the formal control

agencies as well.

North Carolina fits this image well. Historically it is known for its part in the 1838 Cherokee removal better known as the "Trail of Tears" as well as its active role in the civil war. Other interesting mechanisms of control violence include the long tenure of the chain gang in that state and the decades of lynch mob rule following the war between the states.

Steiner and Brown (1927) in their book The North Carolina Chain Gang stated that prior to the civil war there were comparatively few prisoners in North Carolina. There was no state prison and all punishment was handled at the county or local level. Corporal and capital punishment were the norm with jails used only as temporary holding facilities. Prior to the Civil War, 17 offenses were capital crimes warranting the death penalty. Branding, whipping and the use of the stock and pillory were widely used for lesser offenses. Following the Civil War the crime rate in North Carolina and throughout the South grew rapidly which is not unusual for a culture subjected to radical change. This turn of events lead to the development of the chain gang. Prisoners were placed in mobile units, enclosed barred wagons, which could be transported from job to job. Shackles and chains as well as the whip and sweatbox were the normal and legal methods of control. Forty lashes was a common statutory mode of corporal punishment for minor misbehavior on the part of chain gang members. Other more severe punishments included hanging by the thumbs, the sweatbox, whipping plus exposure to the stock or pillory, and of course execution. These controls were enforced by county officials who originally regulated the North Carolina chain gang system which involved mostly misdemeanors since serious criminals, felons, were handled by the state.

Blacks made up the vast majority of offenders who were sentenced to the chain gang in North Carolina, probably accounting for the rapid increase in criminality following the Civil War. Prior to this slave discipline was a private matter. According to North Carolina records, in 1874, of 455 prisoners in the state prison, 384 were blacks and 71 white. In 1875, out of 647 prisoners, 569 were black and 78 were white while in 1878, 846 were black, 105 white and 1 Indian. On the average, the county chain gang ratio was 4 to 1 black.

Barnes and Teeters (1959) referred to the Southern chain gang as "the American Siberia," stating that they were not only discriminatory but manifested some of the cruelest punishment and inhumanity ever recorded in American penal history. Counties often leased their prisoners to private contractors, such as construction gangs, turpentine camps and saw mills. When this was not the case, the chain gangs often worked on county and state road projects. Sources indicate hitchhikers have been arrested and sent to the chain gang merely to supply the county with cheap labor. Sick prisoners have been beaten into insensibility and even into death because overseers have accused them of malingering.

In 1956, William F. Bailey, director of prisons in North Carolina, restricted the use of leg shackels and limited the use of leather leg cuffs. Today members of the state legislature are attempting to reinstate the road gang, the modern outgrowth of the chain gang. Although this is a far cry from the chain gang, the basic philosophy seems similar as one legislator recently outlined the rationale for this program. He stated that prisoners have too much free time while incarcerated and that this idle time is used to plan new crimes and how to escape. Road

labor, he said, would put an end to idleness and save the taxpayers money in the bargain.

A parallel development, again concerning county penal practice, was the lynching era in the South. According to Ginzburg's (1962) work, 100 Years of Lynching, most lynching of blacks in North Carolina occurred during the late 1890's, ending in 1910. By coincidence, lynching subsided when the state absorbed all capital punishment into its jurisdiction in 1910.

The North Carolina state correctional system is unique in that it alone has the jurisdiction to provide serving institutions. County and local jurisdictions can only hold suspects awaiting adjudication. This means that both misdemeanors and felons are absorbed into the same system. The North Carolina system consists of 77 facilities: one maximum security unit, Central Prison; three close custody units, including the correctional center for women; twenty-three medium security units; and fifty minimum custody facilities. Because of this unusual arrangement North Carolina has a two-year maximum for misdemeanor sentences, twice that of the national average. The state system has ten thousand inmates incarcerated in its institutions at any given time. This is from a state with a population of five and a half million people. This compares to 12,210 male and 369 female inmates in the New York State correctional system (21 institutions) which serves a state of over 18 million people. Approximately ten percent of those incarcerated are in Central Prison while the correctional center for women accounts for about 300 inmates. The remainder are located in the other 75 institutions. Those incarcerated in either

Central Prison or the correctional center for women represent the most serious male and female offenders in the state.

The uniqueness of the North Carolina criminal justice system does not rest solely with its correctional system. Still on the law books, although unenforcible, is Statute GS 14-181, Miscegenation, a felony. In addition, judges can declare escaped convicts "outlaws" which in effect allows any citizen to pursue this person and present him to the court dead or alive. Recently (April, 1974) two felons who escaped from a minimum security camp were declared as such.

Another current North Carolina criminal justice controversy concerns the state's attempt to reinstate the death penalty. In the two years since the U. S. Supreme Court's decision abolishing the death penalty as cruel and unusual punishment, the North Carolina legislature has been trying to decide which crimes should bring the mandatory death sentence. From 1868 to April, 1974, North Carolina had four capital offenses: first degree murder, forcible rape, first degree arson and first degree burglary. The latter is quite unusual since burglary, a property offense not involving direct personal contact, accounts for over two million crimes each year. Of the 5,891,900 crimes reported and recorded in the Crime Index, burglary, only one of seven index crimes, accounted for 2,345,000 offenses--40 percent of the crime index total. In April, 1974, the General Assembly modified capital offenses to include only first degree homicide and first degree rape. This occurred while 33 men, nearly half of all those awaiting the death sentence in the United States, await execution on death row at Central Prison.

Reviewing North Carolina's past record starting in 1910 when the state took over the task of executing condemned criminals, 706 persons received the death sentence while 362, or slightly more than half, were actually executed. Of those executed, 282 were Black males, 73 White males, 5 Indian males and 2 Black females (Behre, 1972). Table I shows for which crimes the death penalty was received and how many were actually carried out.

TABLE I: DEATH SENTENCES IN NORTH CAROLINA - 1910 - 1961

OFFENSE:	TOTAL SENTENCED	NOT EXECUTED	THOSE EXECUTED
1. MURDER	531	251	280
2. RAPE	131	60	71
3. BURGLARY	41	30	11
4. ARSON	3	3	0
TOTAL:	706	344	362

Two thirds (22 persons) of the 33 persons condemned to die in North Carolina as of May 1st, 1974 are Black, one is an Indian male while the only female is also Black. According to the Charlotte Observer (1974) Blacks have been routinely screened off the juries in these capital cases. The paper, in another article, stated that seasoned trial lawyers are not assigned indigent capital cases leaving the defense to "green" attorneys often right out of law school. Sixteen of the twenty-two Black defendants were indigent. Here we see discretionary discrimination of the nature Garfinkel (1949) noted in his earlier study of the North Carolina judicial system. The North Carolina supreme court having held up the death sentence leaves the ultimate decision concerning

these persons lives to the U. S. Supreme Court.

The research data includes the total 1973 inmate population of the state's only maximum security unit- central prison; and the only female facility - the correctional center for women. Both are located in Raleigh, the state capital. The two facilities differ considerably although both house the state's most serious offenders. Central prison is an old structure, built in the last century. It is often overcrowded and lacks adequate ventilation. The west wing is for serious felons and they are isolated from the more transient east wing population. In the late 1960s a riot resulted in the death of eight inmates at the hands of the assault force. More recently, numerous inmates have been executed at the hands of other inmates. Subcultural animosities, especially racial strife, are encouraged by the staff and racial segragation is enforced in the living arrangements. Overcrowded conditions, racial strife, and the lack of any universal token economy for the inmates results in a high tension situation, one where the inmate is caught between the staff and subcultural controls and demands. An example of conditions at central prison was the death of a 17 year old misdemeanor in January, 1974 who was electrocuted by the 4,300 volt fence on top of the prison wall. The inmate was mentally disturbed and was not aware of the charged wire when he attempted his escape.

Women's prison, in contrast, is a camp facility with dormatories and cottages on a campus-like estate surrounded not by walls but by an uncharged fence. Most of the women work in either the sewing shop, making all the uniforms for the prisons system, or the laundry, which again services many of the surrounding public institutions. Like their male counterpart, they are not paid for their work.

THE FINDINGS:

Five set of tables present a profile of the inmate populations at Central Prison and the Correctional Center for Women. Combined they examine the class, sex and racial composition of these institutions. Education and previous occupation are used to ascertain social class standing while separate tables (IVA, IVB and IBC) compare the racial distribution of these institutions to that of the state population in general. The final set of tables (VA, VB, BC and VI) present offense distributions for both penal facility.

TABLES IIA, IIB AND IIC HERE

The educational data shows that 78 percent of the male and 82 percent of the female sample have less than a high school education. The distribution across racial lines, for both samples, are similar. In contrast, both samples had only 6 percent of their inmate population with education beyond the high school level.

TABLES IIIA, IIIB AND IIIC HERE

A similar pattern occurs regarding occupational status. The male sample had 89 percent of its inmates falling within the lowest three categories of Hollingshead's social position index. The entire female sample fell into these categories. Forty percent of the black males occupied the lowest occupational category compared to 25 percent of the white males while 62 percent of both the black and white female sample were from this category.

Together the educational and occupational variables indicate that a considerable proportion of those incarcerated at both Central Prison and the Correctional Center for Women were from the lower class irrespective of race.

TABLES IVA, IVB AND IVC HERE

The racial distribution portrayed a wide discrepancy concerning the racial representation in the two penal facilities and that in the general state population. For males, 77 percent of the state population are white while 23 percent are black; yet the Central Prison population consisted of 55 percent Blacks and 45 percent Whites. The female distribution within the state is 76 percent white and 24 percent black while 64 percent of those incarcerated at the Correctional Center for Women were black and 34 percent white.

TABLES VA, VB, BC AND VI HERE

These tables provide a profile of the types of offenses which these "serious felons" were incarcerated at either Central Prison or the Correctional Center for Women. Table VA shows that 59 percent of the males were incarcerated for personal offenses, those directly involving injury or threat of injury to another person, while 35 percent involved property offenses and only 6 percent were non-victim offenses. In contrast, 39 percent of the females were incarcerated for personal and property crimes each, while 22 percent were for victimless offenses. The implication here is that males are imprisoned largely for "violent offenses" while female incarcerations seem to be distributed more evenly across the three categories. An interesting difference is the 22 percent rate for "moral" charges (victimless offenses) among the female sample as compared to only 6 percent for males. Blacks, at both institutions, accounted for slightly higher proportions of personal offenses (63% Black males; 54% White males and 43% Black females; 33% White females) while accounting for fewer property offenses (31% Black males; 39% White males and 33% Black females; 51%

White females).

Table VI provides a more specific offense breakdown showing the F.B.I. Crime Index offenses for both institutions. Overall, both samples account for 50 percent (548 offenders) of the total numbered imprisoned. Violent offenses (murder, rape and aggravated assault) accounted for 51 percent (260 offenders) of the Index offenses for the Central Prison sample and 32 percent of the institution's total inmate sample, while the female sample, on the other hand, had only 34 percent (40 offenders) of its Index crimes coming under the violent category comprising 14 percent of the total inmate sample. The table also includes the most prevalent non-victim offense--drugs. Drug related offenses accounted for 7 percent of the male sample and 15 percent of the female sample.

The nature of offenses indicates that about half of the serious male felons were incarcerated for "Index offenses" while merely a third of the females were imprisoned for such. Accordingly, 59 percent of the male felons were incarcerated for personal offenses while only 39 percent of the females were incarcerated. The serious incarcerated felon population at Central Prison and the Correctional Center for Women represent only a fraction of the state's 100,786 reported Index crimes for 1972, which consisted of 21,612 violent offenses (murder, rape and aggravated assault) and 79,174 property offenses (robbery, burglary, grand larceny and auto theft). The reported violent offenses themselves account for over twice the entire incarcerated population in the State correctional system, which includes many misdemeanors, questioning the manifest objectives justifying incarceration, especially

that of protecting society from criminally deviant members.

CONCLUSION:

Using the North Carolina correctional system as an indicator of fair and equal justice as manifested by our judicial ideals it becomes apparent that this is not the case. Instead of the implementation of our judicial ideals with its larger implications and justifications for punishing "wrongdoers", that of protecting society from serious offenders, the judicial system seems, in fact, to be quite selective, especially along class, race and sex lines. Direct relationships seem to exist regarding class, race and sex in that there is a greater chance for the lower classes, racial minorities and male offenders to be prosecuted, convicted and incarcerated than is the case for other offenders (Wald, 1967). The three variables themselves overlap with the vast majority of those imprisoned being from the lower classes regardless of race and a higher proportion of black females being incarcerated within the protected female class.

Even after taking into consideration North Carolina's disproportionately high incarceration rate (10,000 per 5½ million population base) the discrepancies between those imprisoned in comparison to the incident of reported and recorded offenses is considerable.

It has already been pointed out that over 100,000 Index Crimes were recorded in North Carolina for 1972 and reported to the F. B. I. for its Uniform Crime Report. This is a rate ten times the total incarceration rate for the state correctional system. The differences become more significant when it is realized that most of those incarcerated are not so for Index Crimes. In the nation in general, according to the Uniform Crime Report (1973), of the over 7,000,000 arrested felons in the U. S. in 1972, 85 percent were males while 15 percent were females.

Seventy percent of those offenders were White, 28 percent Black and 3 percent of other racial stock.

TABLE VII: CHARACTERISTICS OF THE NORTH CAROLINA INMATE POPULATION*

OFFENDER:	OFFENSE: Misdemeanor	Felony	Total
White Male	1,493	2,571	4,064
Black Male	1,328	3,829	5,157
Other Male	58	161	219
	2,879	6,561	9,440
White Female	37	79	116
Black Female	47	169	216
Other Female	2	2	4
	86	250	336
TOTAL:	2,965	6,811	9,776

* Data from North Carolina, "State Correction Statistical Abstract" (1973)

Table VII shows that for North Carolina, for the same period - 1972, 9776 persons were incarcerated in the state correctional system (consisting of 77 institutions), of which 97 percent were males and 3 percent females. Within the male sample, 30 percent were imprisoned for misdemeanor charges and 70 percent for felony charges. Black males were overrepresented in the felony category with 41 percent of the male inmate total. Similarly, 26 percent of the females were sentenced for misdemeanor charges and 74 percent for felony offenses. Again, the Black female felon was overrepresented in the female sample accounting for 50 percent of the female inmate total.

While Whites account for the majority of felony arrest, Blacks are the ones who are adjudicated most harshly, accounting for the majority

of incarcerations. Although females in general are subjected to reverse judicial discrimination, those adjudicated represent the same discriminatory patterns found among their male counterparts regarding class and race. This study indicates that the Black, lowerclass female has an even higher representation in the North Carolina correctional system then does the Black male, even though the latter accounts for the greatest number of incarcerated persons in the state.

If the functions of our judicial process do not facilitate its ideal mandate then what purpose does it serve? A plausable answer focuses about the boundary-maintenance concept of relative justice. This perspective views relative justice and selective adjudication as providing visible boundaries for the rest of society to know where the margins of normalcy are at any given time. Justice is seen as being relative in that it is defined not accourding to some rational, ideal standard but in line with the power elite's own value system, one that often is used to perpetuate the power differential between itself and perceived threatening outgroups in the society.

A closing note concerns the misinterpretation of the judicial process by researchers who assume that the criminal justice manifested ideals actually operate within society. In the past and even now social scientist often base their findings on an ex-post-facto interpretation of the data, many assuming that ideal conditions were in operation during the social process, hence presenting an end result which is valid in terms of the avowed manifest ideals. This perspective fails to account for latent functions which may operate within the social process. Lombroso, in Italy, and Hooton and the Gluecks, in this country, are examples of such. For ex-post-facto research to

be valid and responsible latent, as well as manifest functions must be taken into consideration to see what the true nature of the problem is.

TABLE IIA: EDUCATION: CENTRAL PRISON

EDUCATIONAL LEVEL	less than 8th	completed 8th	>8th <12th	completed 12th	more than 12th	N
BLACKS	138 32%	46 11%	153 35%	70 16%	27 06%	434
WHITES	92 25%	77 21%	120 32%	60 16%	23 06%	372
TOTAL	230 29%	123 15%	273 34%	130 16%	50 06%	806

* percentages calculated by rows

TABLE IIB: EDUCATION: CORRECTIONAL CENTER FOR WOMEN

EDUCATIONAL LEVEL	less than 8th	completed 8th	>8th <12th	completed 12th	more than 12th	N
BLACKS	46 24%	19 10%	95 50%	21 11%	10 5%	191
WHITES	19 20%	11 11%	47 48%	12 12%	9 9%	98
TOTAL	65 23%	30 10%	142 49%	33 11%	19 07%	289

* percentages calculated by rows

TABLE IIC: EDUCATION: BY SEX

EDUCATIONAL LEVEL	less than 8th	completed 8th	>8th <12th	completed 12th	more than 12th	N
CENTRAL PRISON	230 29%	123 15%	273 34%	130 16%	50 06%	806
WOMEN's PRISON	65 23%	30 10%	142 49%	33 11%	19 07%	
TOTAL	295 27%	153 14%	415 38%	163 15%	69 06%	1095

* percentages calculated by rows

TABLE IIIA: PREVIOUS OCCUPATION: CENTRAL PRISON

INDEX	1	2	3	4	5	6	7	N
BLACKS	5 1%	10 2%	14 3%	20 5%	91 21%	121 28%	173 40%	434
WHITES	4 1%	7 2%	9 2%	15 4%	154 42%	89 24%	94 25%	372
TOTAL	9 1%	17 2%	23 3%	35 5%	245 30%	210 26%	267 33%	806

* percentages calculated by rows

TABLE IIIB: PREVIOUS OCCUPATION: CORRECTIONAL CENTER FOR WOMEN

INDEX	1	2	3	4	5	6	7	N
BLACKS	0	0	0	0	17 9%	56 29%	118 62%	191
WHITES	0	0	0	0	16 16%	21 22%	61 62%	98
TOTAL	0	0	0	0	33 11%	77 27%	179 62%	289

* percentages calculated by rows

TABLE IIIC: PREVIOUS OCCUPATION: BY SEX

INDEX	1	2	3	4	5	6	7	N
CENTRAL PRISON	9 1%	17 2%	23 3%	35 5%	245 30%	210 26%	267 33%	806
WOMEN'S PRISON	0	0	0	0	33 11%	77 27%	179 62%	289
TOTAL	9 1%	17 2%	23 2%	35 3%	278 25%	287 26%	446 41%	1,095

* percentages calculated by rows

TABLE IVA: RACE DISTRIBUTION: CENTRAL PRISON

RACE	WHITE	BLACK	N
CENTRAL PRISON	363 45%	443 55%	806
*STATE MALE POPULATION	2,079,000 77%	621,000 23%	2,700,000

* estimated population
** percentages calculated by rows

TABLE IVB: RACE DISTRIBUTION: CORRECTIONAL CENTER FOR WOMEN

RACE	WHITE	BLACK	N
WOMEN'S PRISON	99 34%	193 66%	292
*STATE FEMALE POPULATION	2,128,000 76%	672,000 24%	2,800,000

* estimated population
** percentages calculated by rows

TABLE IVC: RACE DISTRIBUTION: BY SEX

RACE	WHITE	BLACK	N
CENTRAL PRISON	363 45%	443 55%	806
WOMEN'S PRISON	99 34%	193 66%	292
TOTAL	462 42%	636 58%	1098

** percentages calculated by rows

TABLE VA: TYPE OF OFFENSE: CENTRAL PRISON

OFFENSE	PERSONAL	PROPERTY	NON-VICTIM	N
WHITE	201 54%	144 39%	26 7%	371
BLACK	273 63%	136 31%	26 6%	435
TOTAL	474 59%	280 35%	52 6%	806

* percentages calculated by rows

TABLE VB: TYPE OF OFFENSE: CORRECTIONAL CENTER FOR WOMEN

OFFENSE	PERSONAL	PROPERTY	NON-VICTIM	N
WHITE	33 33%	50 51%	16 16%	99
BLACK	82 43%	64 33%	47 24%	193
TOTAL	115 39%	114 39%	63 22%	292

* percentages calculated by rows

TABLE VC: TYPE OF OFFENSE: BY SEX

OFFENSE	PERSONAL	PROPERTY	NON-VICTIM	N
CENTRAL PRISON	474 59%	280 35%	52 6%	806
WOMEN'S PRISON	115 39%	114 39%	63 22%	292
TOTAL	589 54%	394 36%	115 10%	1,098

* percentages calculated by rows

TABLE VI: CRIME INDEX OFFENSES: BY SEX

OFFENSE	CENTRAL PRISON WHITE	BLACK	N	CORRECTIONAL CENTER FOR WOMEN WHITE	BLACK	N	TOTAL N
MURDER*	58	86	144	11	14	25	169
RAPE*	32	39	71	0	0	0	71
AGGRAVATED ASSAULT*	15	30	45	3	12	15	45
ROBBERY	62	69	131	3	5	8	139
BURGLARY	15	8	23	0	0	0	23
GRAND LARCENY	17	25	42	11	14	25	67
AUTO THEFT	6	11	17	1	1	2	19
DRUGS**	14	18	32	8	36	44	76
TOTAL	219 35%	286 46%	505	37 6%	82 13%	119	624

* "Violent crimes" according to Crime Index
** Not included in the Crime Index
*** percentages calculated by rows